

# Arizona Racing Commission

622<sup>nd</sup> Regular Meeting

Wednesday, September 11, 2013

## MINUTES OF REGULAR MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, September 11, 2013, beginning at 10:00 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

<b>PRESENT:</b>	<b>Chairman</b>	<b>Burton S. Kruglick</b>
	<b>Vice Chairman</b>	<b>Jay McClintock - Telephonically</b>
	<b>Commissioner</b>	<b>Erin Owens</b>
	<b>Commissioner</b>	<b>Rory S. Goree' - Telephonically</b>
	<b>Commissioner</b>	<b>Bill Feldmeier</b>

**Also Present:** Director William Walsh, Assistant Attorney General, Mary D. Williams, Solicitor General Representative, Assistant Attorney General, Christopher Munns, (for New Business #1 only)

### **A. Call to Order**

**Chairman Kruglick** called the 622<sup>nd</sup> Regular Meeting of the Arizona Racing Commission to order at 10:00 a.m. The following matters were discussed, considered and decided at the meeting:

### **Approval of the Minutes:**

Minutes of the 621<sup>st</sup> Regular Meeting held on Wednesday, June 12, 2013 – **Chairman Kruglick** called for a motion to approve the minutes. **Commissioner Owens** and **Commissioner Feldmeier** moved for approval. The motion carried.

Minutes of the Special Commission Meeting held on Thursday, July 18, 2013 – **Chairman Kruglick** called for a motion to approve the minutes. **Commissioner Owens** moved for approval. **Commissioner Feldmeier** seconded the motion. Motion Carried.

### **B. New Business**

#### **1. Appeal of Director's Order – Appellant Joseph Patrick Wilson, case No. 13A-005-RAC.**

**Attorney Mark A. Fredenberg** appeared on behalf of his client, **Joseph Patrick Wilson** to appeal a Director's Order reference Ruling No. R-112. The Director's Order upheld the Administrative Law Judge's Recommendation.

**Mary D. Williams, Assistant Attorney General**, representing the State. **Ms. Williams** supports the **Department's** decision.

**Christopher Munns, Assistant Attorney General, Solicitor General's Office**, legal advisor to the **Commissioners**.

**Attorney Mark A. Fredenberg**, stated he was here to represent his client, Joseph Patrick Wilson, in appealing the Director's Order. He is asking to overturn the opinion of the stewards in this matter, which is to properly apply the rules for human testing according to the rules of the Department of Racing. He stated that his client is of good character and has had a good reputation in the racing industry for 30 years.

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**Commissioner Feldmeier** asked if new information would be presented today. **Solicitor General, Christopher Munns** explained that no new evidence would be introduced. The information is limited to what was heard in the Administrative Law Judge hearing, the information is listed to determine basically if the discipline was appropriate and the process was correctly implemented, then to decide if it should be modified, reversed or affirmed.

**Attorney Mark Fredenberg** continued stating he was not disputing the fact his client tested positive, he is disputing the fact that his client did not appear to be impaired in any way. The rule was not properly followed.

**Mary D. Williams, Assistant Attorney General**, stated since the appellant did not have a lengthy history he was given the lower punishment. The Commission may reverse it, modify it or uphold it. The appellant tested positive therefore it is a violation and other states do have the right to know, referring to the ARCI (Association of Racing Commissioners International, Inc.) database for reporting incidences. Ms. Williams asked the Commissioners on behalf of the Department to affirm the Steward's Order.

**Mr. Fredenberg** again stated that the Department is not following its own rules, the Department is interfering with someone's livelihood. He asked the Commission to overturn the steward's findings.

**Chairman Kruglick** asked if the Commissioners had any further comments.

During the discussion the topic of a grievance that had been filed was brought up and it was determined by **Mr. Munns** and **Ms. Williams** that it was inappropriate to bring this up since it does not have any bearing on the Stewards Ruling, The Director's Order or the Administrative Judges Decision.

**Director Walsh** stated that the appellant has not had to comply with what was stated in the grievance, and he will not be asked to, however, the Stewards Ruling will stand.

**Chairman Kruglick** asked if there were any questions or comments, not hearing any, we can affirm reverse or modify the Director's Order. He called for a motion.

**Commissioner Owens** wished to clarify the Director's Order before making the motion so that everything is clear.

**Mr. Munns** said the order under appeal is the findings of fact that conclusions of law and order issued by the Director on July 1, 2013, which affirmed the suspension imposed by the Stewards. There was a 30 calendar day suspension and an order to take a drug test prior to having his license reinstated.

**Chairman Kruglick** called for a motion to affirm the Director's Order. **Commissioner Owens** moved to affirm the Director's Order. **Commissioner Feldmeier** seconded the motion. The motion carried.

## 2. Turf Paradise Racing L.L.L.P. Request to Amend 2013-2014 Race Dates at Turf Paradise.

**Director Walsh** stated Turf Paradise has changed race dates this year running Saturday through Wednesday rather than Friday through Tuesday. The dark days will be Thursday and Friday.

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**Director Walsh** asked the Commission to consider the new dates. **Chairman Kruglick** asked if there were any questions, hearing none, called for a motion. **Commissioner Feldmeier** moved for approval. **Commissioner Owens** seconded the motion. The motion carried.

### 3. **Pima County Horseman's Association (Rillito Park).**

a. **Request to Amend 2014 County Fair Race Dates.**

b. **Request to Approve Live Race Dated for 2014.**

c. **Consideration of Temporary Permit.**

**Director Walsh** stated that Pima County is in the process of having their license application reviewed and they are preparing for the February meet. The application will be coming before the board on a future date. In the past they have run a week or so before the Super Bowl, but this time they would like to begin after the Super Bowl and run through March. They have deleted January 25, 26, and February 1, 2, of 2014. They have added February 8, 9, 15, 16, of 2014. They have also requested the approval of Saturday and Sunday race dates from February 22 through March 30, 2014 for a total of 12 commercial race dates. **Director Walsh** asked the Commission to approve the dates and to realize that this is a temporary permit at this time and plan to have the full permit ready for approval by the Commission prior to the meet beginning. **Chairman Kruglick** asked the Commission to consider the temporary permit, siting the aforementioned dates. **Chairman Kruglick** calls for a motion to consider the date changes. **Commissioner Owens** moved for approval. **Commissioner Feldmeier** seconded the motion. The motion carried.

### 4. **Arizona Thoroughbred Breeders Association Request to Amend Agreement for Certification of Thoroughbreds**

The ATBA is requesting the approval for the following changes:

- Maintaining broodmare registry, not to exceed \$25 per mare.
- Processing certification of Arizona bred thoroughbreds:
- Not to exceed \$100 if applied for by September 30 of the foal's yearling year.
- Not to exceed \$130 if applied for after September 30 of the foal's yearling year but before January 1.
- \$300 if applied for after January 1 of foal's two-year old year.
- ATBA members to receive a discount for these services, not to exceed 25%

**Director Walsh** states the Department believes this is a reasonable request because it is difficult and expensive to do this paperwork and wishes the Commission to agree to approve.

**Chairman Kruglick** asks if there were any questions on the agenda item before them, hearing none, he calls for a motion to move this item. **Commissioner Owens** moves the motion to approve. **Commissioner Feldmeier** seconded the motion. The motion carried.

### 5. **Annual Approval of Stewards**

**Director Walsh** explained that annually the Department brings forward the names of new stewards for approval by the Commission. **Sergio Valenzuela, Department Greyhound Steward**, is not present at the meeting but he is the steward before the Commission to be approved. **Director Walsh** continues that Mr. Valenzuela serves as a steward at Tucson Greyhound Park and he does an excellent job and the Department requests he be approved. **Commissioner Owens** asks if Sergio

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Valenzuela is currently working as a part time steward. **Director Walsh** explains that Mr. Valenzuela has been filling in for Juan Estrada who has been moved to Turf Paradise to work and that Mr. Valenzuela has done an excellent job in filling the stewards position at Tucson Greyhound Park and the Department anticipates Mr. Valenzuela will be with the agency for a very long time and asks the Commission to approve him. **Commissioner Owens** asks if Mr. Valenzuela has ever been approved by the Commission in the past. **Director Walsh** responded, no. **Commissioner Owens** made a request for future consideration of Steward approvals that the Department provide information for the Commissioners to review, such as a list of credentials and reasons why the Department has chosen this individual for approval. **Director Walsh** replied that he would do so in the future.

**Chairman Kruglick** called for a motion to approve the appointment of Sergio Valenzuela. **Commissioner Goree'** moved to approve. **Commissioner Feldmeier** seconded the motion. The motion carried.

## 6. Request by Turf Paradise for Approval of the following Off Track Betting Facility: Diamond Plate Restaurant, 1820 S. 7<sup>th</sup> Street, Phoenix, Arizona 85034

**Director Walsh** stated the request was in compliance with the requirements of A.A. C. R-19-2-405. The establishment had been visited by **Magdeleno Perez, Supervisor, Off Track Betting**, to see if it met the qualifications for an Off Track Betting facility. Mr. Perez believes the establishment meets the requirements and has the qualities for an OTB and we can recommend it for approval.

**Chairman Kruglick** asks if there is any discussion, none being heard, he called for a motion. **Commissioner Goree'** moved to approve. **Commissioner Owens** seconded the motion. The motion carried.

## C. Informational Reports

### 1. Fiscal Year 2013 – 4<sup>th</sup> Quarter Breeders' Awards

**Director Walsh** reported we developed a system that split the money throughout the year by quarter and by breed.

- **Greyhound**                \$ 11,000.00 ( 5 Greyhound breeders)
- **Quarter Horses**        \$ 2,048.29 (2 Quarter Horse breeders)
- **Thoroughbreds**        \$ 36,198.49 (24 Thoroughbred breeders )

The total amount of awards paid during Fiscal Year 2013 was \$250,000 and that is what the Department anticipates spending next year. The whole \$250,000 was paid out this year. **Director Walsh** stated that we are coming up on a new legislative session and now would be the time for the people in the industry together and push for increases if possible.

### 2. Interim General Manager at Tucson Greyhound Park

**Director Walsh** introduced former TGP General Manager, Tom Taylor, and gave a brief history of his accomplishments. **Director Walsh** stated that Mr. Tony Fasulo was asked by Mr. Consolo and Mr. Zapala to take over on an interim basis while they are recruiting a new general manager and by the first of the year we hope to have that information for the Commission.

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## 3. Updated Medication Threshold List

**Director Walsh** defers to **Dr. Scot Waterman** so he may make comment on this subject. He points out the highlighted changes made on a list which was made available to the Commission and the public. **Commissioner Owens** asked where this information could be found. **Dr. Waterman** replied it could be found on the Department of Racing's website or hard copies are located at the racetrack in the licensing office and the Director has circulated to the horsemen's groups. **Director Walsh** reported that he plans on having a meeting with the horsemen closer to the beginning of the meet to go over the updates. **Commissioner Owens** recommended that the licensing department have extra hard copies to make it readily available to the public.

## 4. Greyhound Racing Issues

**Director Walsh** stated he is hesitant to bring it forward but the alternative press down in Tucson has printed misleading articles and he wishes to inform the Commissioners. Information which is wrong and misleading will filter out throughout the industry and he does not wish to let it get any further. PACC Inspections were discussed. Testing done by the Department was discussed. **Director Walsh** described what the PACC Inspections were looking for, anabolic steroids. He explained what the Department does to protect the greyhound athletes and that the Department does run sophisticated tests to protect the dogs. The anabolic steroids that the PACC Inspections questioned are part of those tests. **Director Walsh** wished to make it clear to everyone that the Department has a strong commitment and will not tolerate any abuse of the animals. The Department's job is to protect both horse and greyhound athletes and anyone found to have violated the rules and laws will be dealt with accordingly.

**Commissioner Goree'** gave his thanks to the Department for the work they and others do to support the wellbeing of the greyhounds.

## 5. Request For Support For ARCI Model Rule Change For Equine Welfare

**Director Walsh** reported that he received a letter from Shannon Reynolds about two weeks ago. The subject of the letter is a model rule she has developed and she wished to share it with the Arizona Racing Commissioners.

**Chairman Kruglick** stated that animal welfare is something that is on everyone's mind and is of great cause and concern. **Director Walsh** stated that Ms. Reynold's specific proposal is very complicated and we don't have the infrastructure here to do what she is proposing. We would have to come up with other ways to earn the money. **Commissioner Owens** said she believes we are going in the right direction in finding something fair and doable.

**11: 28 Commisisoner Feldmeier** excuses himself from the meeting.

**Director Walsh** confirms we have Commissioner Goree' and Commissioner McClintock on the telephone since they are appearing telephonically, they both confirm they are still present.

## 6. Animal Drug Testing Procedure Process

**Dr. Ron Friedman** gave a demonstration on testing procedures performed at the Test Barn. Everything they do at the Test Barn revolves around two things: One, accuracy and Two, a solid, secure chain of custody. He has brought some equipment he uses at the test barn to perform tests and he demonstrated how it is used while explaining the chain of custody.

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## 7. Teletracking (OTB) Presentation

**Magdaleno Perez, Supervisor, Off Track Betting**, provides a brief description of his job. **Mr. Perez** describes the steps he takes with each potential Off Track Betting facility and once they are approved by the Department and the Commission his job is to continue to ensure the facility remains in compliance. **Director Walsh** gave a brief background on Mr. Perez and commented that he is proud of **Mr. Perez's** accomplishments. **Director Walsh** also mentioned that **Mr. Perez** has recently completed Stewards training and is awaiting the results from that training.

## 8. Permittee Reports

- a. American Greyhound Racing - no report
- b. County Fairs – Director Walsh reports they had a meeting in Globe, Arizona. He had missed that one but intends to attend future meetings.
- c. Rillito Park – no report
- d. Tucson Greyhound Park –no report
- e. Turf Paradise - General Manager, Vince Francia reported there are 24 days until the opening of the 58<sup>th</sup> race meet. They have allotted 2,000 stalls, they have 193 trainers, 121 are from Arizona, next in line is Canada, then Washington followed by Colorado. Many loose ends are popping up and are being finalized. The purse count currently stands at \$3 million and is growing.

## 9. Optional Industry Stakeholder Association Updates

- a. Arizona Greyhound Association – no report
- b. Arizona Quarter Racing Association – no report
- c. Arizona Thoroughbred Breeders Association – no report
- d. Horsemen's Benevolent & Protective Association – Lloyd Yother reported that they worked with Turf Paradise this summer. They partially paved the backside and it has improved drainage.
- e. Jockey's Guild – no report

## D. Commission Reports

### 1. Director's Report

**Director Walsh** reported he attended ARCI summer meetings and he learned about the development of a points system for multiple medication violations by trainers and owners. The system will track violations across the United States and Canada, assign points to them and it allows you to see if someone accumulates an excessive amount within a defined period of time, similar to what we are accustomed to with our traffic violation point system. The point system would help make a recommendation as to what penalty type but ARCI has higher penalties than the state of Arizona so that is something we may have to take a look at. The Department of Racing is in the process of developing our computer system so that the information can be transferred to ARCI. We will also be posting our rulings on our website starting with the Turf Paradise meet. The rulings will also go to ROAP.

**Director Walsh** met with the Interim General Manager of Tucson Greyhound Park, Tony Fasulo, along with Dan Reinertson, Chief Greyhound Steward, Sergio Valenzuela, Greyhound Steward and Andy Carlton, Chief Greyhound Veterinarian. They reviewed issues of concern to both TGP and to the Department.



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**Director Walsh** is anticipating the opening of the Turf Meet and is scheduled to meet with ADOR staff to discuss:

- Conduct of Hearing
- Conduct of Barn Searches
- Update Everyone on Computer and Licensing Systems

The Director reported he will also be holding a meeting at the request of the HBPA prior to the start of the meet, the date for that meeting is yet to be determined.

**Director Walsh** provided an update on the Turf Paradise Permit, the last person to be interviewed is occurring today at another location. He explained that multiple roadblocks have slowed this process down but they are getting close and he is waiting for the Veriti report concerning Turf Paradise, so he may review it.

## 2. Identification of Matters To Be Placed On Future Agendas

**Commissioner Owens** requested to add a future agenda item for the next Commission meeting. She would like to discuss the length of time an organization could operate on a temporary permit. She believes there should be deadlines for temporary permits. **Director Walsh** said he would place it on the next agenda.

## E. Call to the Public

**1. Tom Taylor** wished to express his thanks to the Department of Racing and to the Industry he has been involved with for many years. He wished to also thank Tucson Greyhound Park for supporting him the many years he worked for them and the education that gave him the appreciation of the industry that he holds today. He currently is doing business around the world due to his involvement in the racing industry. He wishes the industry the best. He believes legislation needs to be changed in order for the industry to survive.

**2. Steve Nolan and his associate Alex Cho** wished to inform the Commission that they are planning to revitalize the horse racing industry. Their business is called Venture Group LLC. Mr. Nolan and Mr. Cho have 75 years of racing experience between them. Mr. Nolan reported he had met with Gary Miller and the meeting was a success and he is excited to report that things look promising.

**Commissioner Kruglick** called for a motion to adjourn. **Vice Chairman McClintock** made a motion to adjourn. **Commissioner Owens** seconded the motion. Motion carried.

This public meeting adjourned 12:15 p.m.  
Dated this 11<sup>th</sup> day of September, 2013

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By \_\_\_\_\_  
Victoria Huguenard, Administrative Assistant

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